

Meeting:	Overview & Scrutiny Committee	Date:	30 September 2019
	Cabinet		9 October 2019
Subject:	Gloucester Community Building Collective		
Report Of:	Jennie Watkins, Cabinet Member for Communities and Neighbourhoods		
Wards Affected:	all		
Key Decision:	No	Budget/Policy Framework:	No
Contact Officer:	Anne Brinkhoff, Corporate Director (Partnerships)		
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Appendices:	1. Vision, mission and operating principles for community building in Gloucester		

FOR GENERAL RELEASE/ EXEMPTIONS

1.0 Purpose of Report

To provide an update on the City's successful community building activities, their national recognition and to set out future steps for the establishment of a Community Interest Company.

2.0 Recommendations

2.1 Overview and Scrutiny Committee is asked to consider the information contained in the report and make any recommendations to the Cabinet.

2.2 Cabinet is asked to **RESOLVE/RECOMMEND** that

- (1) the progress in delivering community building activities in Gloucester be noted
- (2) secondments and placements from Gloucestershire County Council (Adult Social Care) and the Constabulary (PCSOs) are welcomed
- (3) the investment by Barnwood Trust of 2 days/week for a period of 52 weeks to mentor and facilitate the current team, further develop the Collective and undertake fund-raising be welcomed
- (4) the next steps in the development of the Collective to become a community led organisation from October 2021 be noted
- (5) the increasing national interest in our community building work, including our involvement in Nesta's 'Upstream Collective', the Key Cities work and the Centre for Public Impact be noted
- (6) whilst plans for fund-raising are noted, the Council underwrite the salaries of the three City Council employed community builders until December 2020 amounting to £90,000 to provide job certainty and protect our investment in training and developing them as individuals and as a team

- (7) a Community Interest Company (CIC) for the purposes of community building be established, more specifically: -
 - a. that the name of this company is 'Gloucester Community Building Collective CIC'
 - b. that the City Council is the sole member
 - c. to note that the Leader intends to appoint the Council's Corporate Director (Partnerships) and Head of Communities as the sole Directors
 - d. that Cabinet nominate a charity in the event that the CIC is wound up
- (8) authority be delegated to the Corporate Director (Partnerships) in consultation with the Cabinet Member for Communities and Neighbourhoods to agree and enter into all necessary documentation to implement the above-mentioned recommendations, including the Memorandum and Articles of Association, Form CIC36 and Form INO1

3.0 Background and Key Issues

- 3.1 Asset Based Community Development (ABCD) is about growing sustainable communities, building connections between people that live in the area and empowering people to take action on things that are important to them – which will often be different to what statutory/public sector agencies perceive to be important. ABCD is not about setting up new services or groups, although people may come together informally as a result of building connections, but it can contribute to or complement the priorities of statutory partners. This is because building stronger communities supports people's feeling of safety, well-being and health more broadly. The focus of community building is not on providing specific outputs but about providing stronger community connections which, in turn, will provide increases in wellbeing and health. The council's commitment to ABCD is written into the current council plan (2017-2020) with an aspiration to become a Centre of Excellence. Although we recognise that there might be a financial case for this way of working, our commitment to ABCD is based on the belief that people live more fulfilling lives when they have the power to shape their own outcomes and change things that matter to them. For communities to thrive, they need to be given the tools and resources to find solutions that work for them and for the places where they live
- 3.2 In December 2018, Cabinet approved plans for the medium and longer-term delivery of community building in Gloucester. This included the vision, mission and operating principles (Appendix A), the establishment of a formal partnership with Barnwood Trust and Gloucestershire Constabulary, commitment of the 'Your Gloucester' budget (£10kpa) and £5k from the Gloucester Lottery central pot to the partnership for two years. Cabinet also authorised the Corporate Director (Partnerships) to work towards the establishment of an independent legal entity. This report seeks to update Cabinet on progress with the community building project.

- 3.3 Since January 2019 community building activity has grown and is delivered by a team of dedicated community builders who are funded through the City Council, CCG, and County Council (Adult Social Care). The team are co-located and work independently from the Age UK offices in the City Centre. They are developing their own identity as a Community Building Collective in preparation of becoming an independent legal entity. Line management and oversight is through the Head of Communities at Gloucester City Council. The team are encouraged to work in a self-managed way with external facilitation, mentoring and training, some of which has been delivered through Barnwood Trust.
- 3.4 The team of nine are funded through partnership contributions as follows:
- Gloucester City Council (1 established; 2 new fixed-term posts)
 - Gloucestershire County Council (3 secondments; for an initial 2 year period)
 - Gloucestershire Constabulary (3 PCSO placements to start from November '19)
 - CCG (1 established post, fixed term – this is located at Roots Café but works collaboratively with the Collective)
- 3.5 Community Builders are based in Moreland, Tuffley, Kingsholm, Westgate and Elmbridge, with two further areas for new secondees yet to be agreed. The work to date has been focused on getting to know the area, facilities, people and groups as well as engaging with ward Councillors, community leaders and organisations. They have engaged in a wide range of community events over the summer months including the Tuffley Festival where they held an ideas stall, Tuffley Park Social Club fun day run by Moreland residents and Linden Residents Association World Café event.
- 3.6 A Memorandum of Understanding sets out the roles and responsibilities of the three partnership organisations (Gloucester City, Barnwood Trust and the Constabulary) with regards to operational management and the strategic development of the partnership. Partnership meetings are held monthly to review progress.

Developing the model – a phased approach

- 3.7 The experience of the last six months has highlighted that a phased approach is required to successfully grow the project into an independent company that is led by the community. The proposed phases are outlined below.

Phase 1 (January 2019 – December 2020) – developing

Project sponsorship ultimately lies with Gloucester City Council with input and support of Barnwood Trust and Gloucestershire Constabulary. Governance is through a Memorandum of Understanding, until a CIC (or similar) is in place. Delivery will come from a small team of community builders on fixed-term contracts (City Council) plus secondments from partners (County Council, Constabulary). Performance monitoring and systems for sharing information/stories of activity and impact will be developed.

Key activities include:

- Establishment of an independent legal entity (specifically a CIC) by the Council initially

- Bringing together a team of community builders (through direct appointments and secondments from partners) that are co-located and work to an agreed and consistent methodology
- Articulating a succinct 'theory of change' and developing work and performance monitoring criteria, processes and mechanisms that provide evidence of delivery and impact (input, output, outcome)
- Fundraising for the short and medium term, through negotiations with partners (staff secondments), identifying funding opportunities and submitting funding applications to a range of local/national partners, including the National Lottery
- Commence the development of a long-term financing option and approach, for example a social or community investment model
- Establishing and developing ways of showcasing and communicating the work of the CIC
- Commence a dialogue with the community to allow a transfer of governance, ownership and management gradually but as early as possible.

Phase 2 (October 2020 – October 2021) – transition to community-based model

Project established with shared governance between statutory planners and the community, some reliance on external grants but increasing financial independence.

- CIC (or similar) established with a small/growing number of community representatives as Directors
- External funding secured (ie through National Lottery; on-going secondments/placements) for the team of community builders to be funded in the medium-term
- Theory of change in place and performance monitoring systems embedded
- Agreed approach to operational and financial management of the CIC (ie including TEAL or more mainstream approaches), and processes and practices in place
- Agreed approach to longer-term funding of the community building project

Phase 3 (October 2021 – on-going) – community led with evolutionary purpose

Project established and governed by community. Financial independence. High visibility locally, county-wide and nationally.

- Strong Governance rooted in communities; Gloucester City Council no longer the largest shareholder but a core and key supporter in its role as local leader and place shaper
- Staffing structure in place – a likely mix of secondments/placements and staff directly employed by the legal entity
- Purpose continues to evolve – but grounded in ABCD principles
- Organisational arrangements for management are maturing
- Financial independence
- Explore opportunities for 'traded services'
- Strong visibility throughout Gloucester

3.8 The experience of the last six months has also highlighted the complexity of the project and the need for dedicated development time. Acknowledging the City Council's commitment to community building and protecting their investment in community building over the past five years, Barnwood Trust are investing in an

independent dedicated resource (2 days/week for one year) to support phase 1 of the project.

Becoming a nationally recognised centre of excellence

- 3.9 Gloucester is receiving national recognition for its successes in community building and asset-based approach to service delivery. The [Centre for Public Impact](#) visited the City in March to learn about our activities and what potential it holds for the future of local government. We hosted a visit from the 'Key Cities' in June and have been approached about taking an active part in a new 'portfolio for communities' and take a proactive part in engagement with government departments.
- 3.10 Gloucester City has bid successfully to join the 'Upstream Collaborative' run by Nesta (www.nesta.org.uk), a well-known and respected innovation foundation working in the public and private sectors. Starting in October 2019, the Upstream Collaborative is a network to support Local Government innovators to share, accelerate and evaluate new operating models that work upstream of social problems, creating the conditions from which good outcomes are more likely to emerge. It will bring together a group of senior, strategic leaders from pioneering councils from across the country to share their experiences and learn from each other as part of a collaborative network. Together, they will test how to build a shared movement of local government leaders experimenting with new operating models to find more effective and sustainable ways to meet citizens' needs. We will be sharing our experience and expertise of strengths-based working and will seek support for the Community Building Collective project.

Community Interest Company

- 3.11 As outlined in the December 2018 report to Cabinet, the rationale for an independent organisation such as a Community Interest Company (CIC) is that it allows community building to happen without the constraints of any one organisation. It is likely to achieve a wider buy-in from communities and a range of partner organisations and would ensure a longer-term success of the project. It would enable a joined up, coherent and consistent methodology for community building which is crucial for a scaled up and city-wide approach. In the longer term it enables community building to be led by the community itself
- 3.12 Advantages of a CIC are that specific social goals can form the organisational objectives ensuring that the project is always delivered with those objectives in mind. It also allows access to a wide range of funding opportunities through both grant making trusts and commercial activity should that be required to deliver the objectives. The governance and reporting requirements of a CIC are straightforward which means that as the CIC begins to transfer to community ownership, they will still be able to fulfil the legal obligations in the future.
- 3.13 The following operational points must be noted:
- It is envisaged that current staff employed by the City Council will not be transferred into the CIC for the foreseeable future.
 - Staff funded through successful fundraising activities will be appointed by the CIC.

- Until such time that the CIC is appointing staff, governance, HR, Legal, ICT and other support will be provided by Gloucester City Council

4.0 Asset Based Community Development (ABCD) Considerations

4.1 This project supports the vision for Asset Based Community Development in Gloucester

5.0 Environmental Implications

5.1 N/A

6.0 Alternative Options Considered

6.1 Setting up a dedicated council team to deliver Community Building was considered which has been tried before. This approach does not have the independence required for community work of this nature and the risk is that communities will not engage with the Community Builders as they are seen as part of the Council

5.2 Setting up a company, wholly owned by the Council was considered, however, we do not consider that this would be viewed to be independent of the Council and it may still be unable to apply for some funding.

7.0 Reasons for Recommendations

7.1 Community Building is fundamentally inclusive. By setting up an independent CIC we give Community Builders the ability to work across the whole City with everyone, rather than being places within an organisation with specific objectives (inclusion, disability, health, etc).

8.0 Future Work and Conclusions

8.1 As outlined in sections 3.7 above

9.0 Financial Implications

9.1 As noted in the December 2018 Report the salaries of the Community Builders during the first two years were expected to be covered through secondments from the partner organisations and the City Council. This additional cost to the Council of £90k was to be met through fundraising and the extent of any additional financial commitment from the Council will need to be appropriately considered for inclusion in the 2020/21 budget process.

9.2 The setting up of a Community Interest Company ("CIC") will require the input and support of several of the Council's support services (Finance, Legal, Human Resources, etc) and accordingly the costs of this support will need to be included in future budget setting processes.

9.3 It is also essential that robust financial reporting and performance monitoring mechanisms are developed and implemented with regard to the proposed CIC from

the outset, including a clear timetable for financial reporting to the Council and partner organisations.

(Financial Services have been consulted in the preparation this report.)

10.0 Legal Implications

- 10.1 The Council is empowered to set up the company by section 1 of the Localism Act 2011 – “the general power of competence”. Although wide ranging in what it permits authorities to do, the power is circumscribed by any legal provisions applicable to the proposed activity (see paragraphs 10.2 to 10.5 below).
- 10.2 The Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 require that the company’s name is suffixed by the words “Community Interest Company” or “CIC”).
- 10.3 Paragraph 2.2(7)d of this report describes the operation of the “asset lock” which ensures that the company’s assets on dissolution are not distributed for the benefit of any individuals but continue to be used for the wider public good. The assets can only be distributed to “an asset locked body” i.e. one which is “(another) community interest company, a charity, a permitted registered society or (an equivalent) body established outside the United Kingdom.” The Council has nominated a specific asset locked body in its articles of association i.e. Gloucester Round Table Charitable Trust Fund
- 10.4 With regard paragraph 3.4 of this report and Phase 3 of the timetable any secondments should be documented by formal agreements to avoid any possibility of staff transferring to the company by operation of TUPE (The Transfer of Undertakings (Protection of Employment) Regulations 2006) once the company transfers its governance to the community.
- 10.5 The Council’s nominated Directors will be required to comply with their duties under the Companies Act 2006, a summary of which is appended to this report.

(One Legal have been consulted in the preparation this report.)

11.0 Risk & Opportunity Management Implications

- 11.1 Inability to raise funds for the longer term (phase 2 and 3). - If funding beyond the first phase is not achieved the CIC will be wound up.
- 10.3 Loss of partnership support - the project has the support of several partners so one or two partners retracting support will have a notable but not significant impact.

12.0 People Impact Assessment (PIA) and Safeguarding:

- 12.1 This project is fundamentally inclusive and aims to work with all residents in all wards over the 10 year period.

11.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

13.0 Community Safety Implications

13.1 This project is expected to have a positive impact on community safety over the 10 year period and research suggests that this will be the case

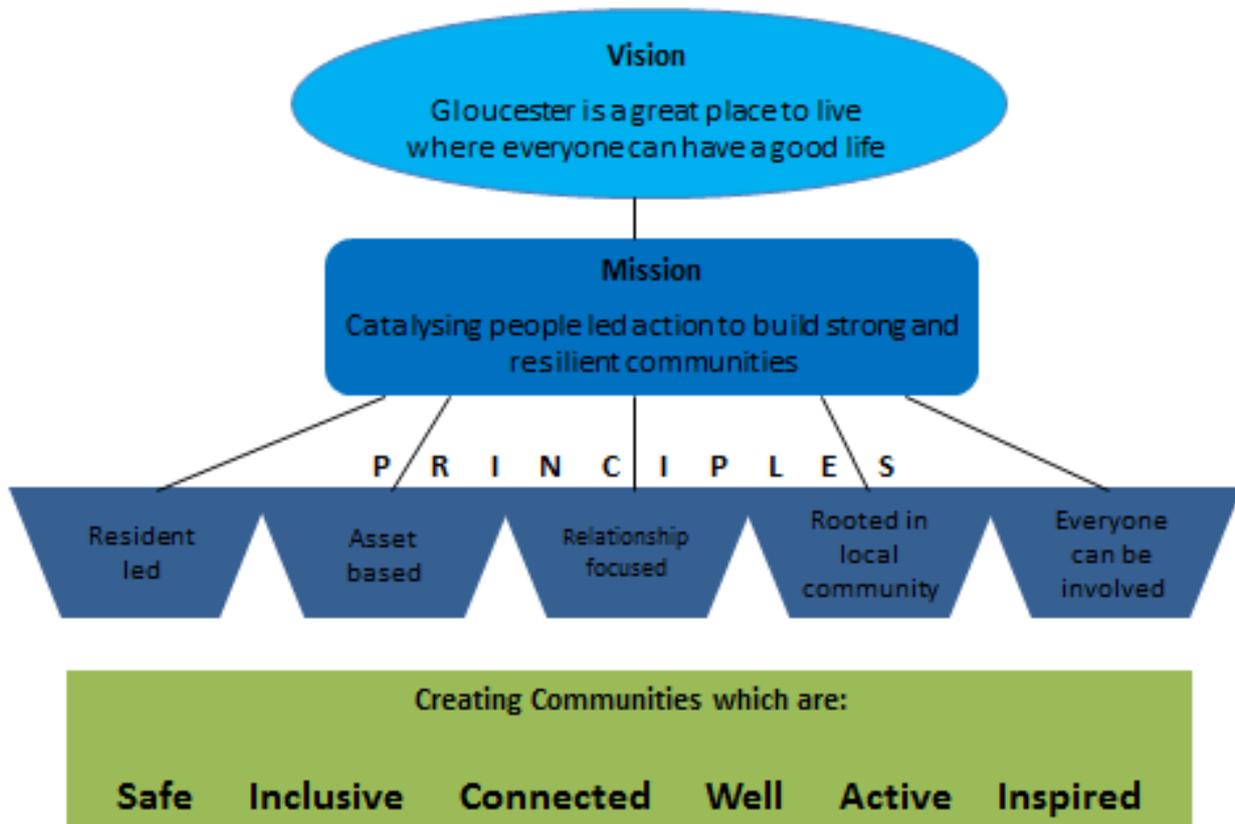
14.0 Staffing & Trade Union Implications

14.1 Staffing from the City Council will be involved with the work of the CIC through secondments. This will ensure staff continue to benefit from the pay and conditions of the City Council.

Potential Media Interest – to be completed for SMT/Cabinet Briefing purposes. Remove prior to publication of report. Draft report to be sent pressoff@gloucestershire.gov.uk.

Background Documents: None

Appendix 1



APPENDIX 2

DUTIES OF DIRECTORS UNDER THE COMPANIES ACT 2006

Summarised below are the seven general duties set out in ss.170 to 181 of the Companies Act 2006 ('the Act').

1. Duty to act within their powers

This duty is set out in section 171 of the Act and codifies the common law rules that directors should exercise their powers under the terms that were granted for a proper purpose. A director's powers are set out in the articles of association and in the Members' Agreement (if any).

2. Duty to promote the success of the company

This duty is set out in section 172 of the Act. It imposes a duty to act in the way a director considers, in good faith, would be most likely to promote the success of the company. Although this duty is still owed to the Members of the Company as a whole, when exercising this duty the director is required to have regard to various factors, including, the following:

- (a) the likely consequences of any decision in the long term,
- (b) the interests of the company's employees,
- (c) the need to foster the company's business relationships with suppliers, customers and others,
- (d) the impact of the company's operations on the community and the environment,
- (e) the desirability of the company maintaining a reputation for high standards of business conduct, and
- (f) the need to act fairly as between members

It can be seen that among other things, this duty introduces wider corporate social responsibility into a director's decision making process.

It is important that detailed minutes are taken when exercising decisions to document the fact that directors have had regards to various factors listed in section 172.

3. Duty to exercise independent judgment

Section 173 of the Act imposes a positive duty on a director of a company to exercise independent judgment. It is important to recognise that a Council nominated director cannot subordinate the interests of the company to those of the Council.

4. Duty to exercise reasonable care, skill and diligence

This duty is set out in s. 174. It prescribes the degree of 'care, skill and diligence' expected from a director as follows:

- a. the general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the director in relation to the company; and
- b. the general knowledge, skill and experience that the director has.

If a director is appointed to undertake a particular function, then that director will be expected to exercise the skills required of that post in all aspects of decision making.

5. Duty to avoid conflicts of interest

This duty is set out in section 174 of the Act. It applies to a transaction between a director and a third party, such as the exploration of any property, information, opportunity. The duty does not extend to a transaction between a director and his own company, in respect of which s177 applies which requires a director to declare his interest to the other directors. It should be noted that such

transactions can be authorised by the non-conflicted directors on the board provided that certain requirements as listed in s175 (5) (6) including who can participate and vote on such authorisation are complied with.

6. Duty not to accept benefits from third parties

This duty is set out in section 176 of the Act and states that a director is not permitted to accept a benefit from a third party by reason of (a) his being a director or (b) his doing or not doing anything as a director.

7. Duty to declare interest in proposed transaction or arrangement with the company

Section 177 of the Act requires a director to disclose his interest to the board of the company when a transaction is proposed between a director and his company. The requirement for disclosure is dispensed in circumstances where the interest cannot reasonably be regarded as likely to give rise to a conflict of interest or if other directors are already aware or 'ought reasonably to be aware' of the director's interest.

LIABILITIES OF DIRECTORS UNDER THE COMPANIES ACT 2006

Personal liability

Directors act as agents of the company. There are a number of circumstances when a director may be held personally liable for company debts.

- Wrongful Trading - A director could be found guilty of wrongful trading if, at some point prior to the company going into insolvent liquidation, they knew or ought to have concluded that the company would have no reasonable prospect of avoiding insolvent liquidation. If a director is found to be guilty of wrongful trading, the Court may make an order to require a contribution to the assets of the company, to be distributed amongst its creditors.
- Fraudulent Trading – A director would be found guilty of fraudulent trading if it appeared to the liquidator that the company carried on business with the *intent* to defraud its creditors or for any other fraudulent purpose. It is not enough to show that the directors continued to run up debts whilst the company was insolvent, it must be shown that there was actual dishonesty, involving real moral blame.
- Misfeasance or breach of fiduciary duty - A director has a duty to act in the best interests of the company. Therefore if, in the course of a winding up the company, it appears that a director has misapplied or retained, or become accountable, for any money or other property of the company; or been guilty of any misfeasance or breach of any fiduciary or other duty,

the Court may order the director to restore money or property with interest or pay compensation to the company. Some examples include: where a director enters into a contract on behalf of the company, but fails to disclose the company's interest; or if a director signs a cheque or places an order without stating that they are acting on the company's behalf, the other party may hold him liable. If the company avoids the transaction, the director may be left to deal with the financial consequences.

It is worth noting that the primary catalyst for directors' external personal liability is the imminent insolvency or winding up of the company. It is rare for directors to experience personal financial liability whilst the company is a going concern.